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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

THE PEOPLE,

Plaintiff and Respondent,

v.

LAWRENCE PEDRO MILLER,

Defendant and Appellant.

H032815

(Santa Clara County

Super. Ct. No. CC638454)

After robbing a convenience store armed with a box-cutter, defendant Lawrence Pedro Miller fled the scene by car. He engaged police in a high speed chase but was eventually apprehended. After the victim identified him in the field, defendant was arrested and charged. Defendant now appeals from a judgment entered after he pleaded no contest to second degree robbery (Pen. Code §§ 211-212.5, subd. (c)),¹ personal use of a deadly weapon (§ 12022, subd. (b)(1)), driving with willful and wanton disregard for safety while eluding a peace officer (Veh. Code, § 2800.2, subd. (a)), and resisting arrest. (§148, subd. (a)(1)). Defendant also admitted two strike priors, a serious felony prior and a prison prior. (§§ 667, subd. (b)-(i), 1170.12, 667, subd. (a), 667.5, subd. (b).) At the change of plea hearing on March 12, 2007, the court advised defendant that “[t]he maximum sentence that you face is 31 years in state prison. However, you are going to

¹ All further unspecified statutory references shall be to the Penal Code.

bring a *Romero*² motion, and if the court strikes one of the two strikes, you could then be sentenced to state prison for anywhere from ten years four months to 18 years four months.” After the trial court heard and granted the *Romero* motion, dismissing one of defendant’s strike priors, the court sentenced defendant to 16 years in prison. The court also imposed a \$6,400 restitution fine, suspended an equal fine under section 1202.45 and awarded defendant 649 days of custody credits.

After sentencing, defendant wrote to the court complaining about the length of his sentence and reciting certain representations made by retained counsel, Ms. Jamie Harmon. In response, the clerk of the court wrote to defendant inquiring if he “would like [the judge] to treat your letter as a request under Penal Code section 1170(d) to recall your sentence.” Defendant never responded to this letter. Instead, this timely appeal ensued. In the request for certificate of probable cause accompanying the notice of appeal, Ms. Harmon stated that “[d]efendant believes that there is exculpatory evidence which exonerates him. Defendant also believes that his sentence is unduly harsh.” Ms. Harmon goes on to state that “an unconsentable [*sic*] conflict has arisen between the defendant and counsel Trial counsel respectfully suggests that this court is best equipped to make the determination of whether probable cause exists to allow an appeal to be filed” The trial court granted the certificate of probable cause without further comment.

On appeal, we appointed counsel to represent defendant in this court. Appointed counsel filed an opening brief which states the case and the facts but raises no specific issues. We notified defendant of his right to submit written argument in his own behalf within 30 days. We granted defendant multiple extensions of time to file argument on his behalf. Those extensions have elapsed and we have received no written argument from

² *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497.

defendant.³ Pursuant to *People v. Wende* (1979) 25 Cal.3d 436, we have reviewed the entire record and have concluded that there is no arguable issue on appeal.

DISPOSITION

The judgment is affirmed.

RUSHING, P.J.

WE CONCUR:

ELIA, J.

BAMATTRE-MANOUKIAN, J.

³ On May 4, 2009, defendant filed a petition for habeas corpus. On May 6, 2009 we ordered the habeas considered with the appeal. By concurrent order dated this day, we will deny that petition.